REMARKS

The present response is intended to be fully responsive to the rejection raised in the Office Action, and is believed to place the application in condition for allowance. Further, the Applicants do not acquiesce to any portion of the Office Action not particularly addressed. Favorable reconsideration and allowance of the application is respectfully requested.

In the Office Action, the Examiner noted that claims 1-19 are pending, and that claims 1-10 and 12-19 are rejected. The Examiner objected to claim 11. By this response, claims 1-19 continue without amendment. In view of the following discussion, Applicants submit that none of the claims now pending in the application are anticipated under the provisions of 35 U.S.C. §102. Thus, Applicants believe that all of these claims are now in condition for allowance.

I. ALLOWABLE SUBJECT MATTER

The Examiner objected to claim 11 as being dependant on a rejected base claim, but would be allowable if rewritten in independent form. (Office Action, p. 5). Applicants thank the Examiner for indicating allowable subject matter. As discussed below, however, Applicants believe that independent claim 9, from which claim 11 depends, is patentable over the cited reference. As such, Applicants contend that dependent claim 11 is also patentable over the cited reference. Accordingly, Applicants respectfully request that the objection to claim 11 be withdrawn.

II. REJECTION OF CLAIMS UNDER 35 U.S.C. §102

The Examiner rejected claims 1-10 and 12-19 as being anticipated by U.S. Patent No. 5,734,814 issued to Corbin, et al. ("Corbin"). In particular, the Examiner stated that Corbin teaches accessing checkpoint data within a production server and distributing the checkpoint data for storage on a plurality of backup servers. (Office Action, p. 2). Applicants respectfully traverse the rejection.

Corbin teaches a computing system utilizing redundant storage devices arranged in a RAID-5 disk array that addresses the problem of synchronization between data and parity. (Corbin, Abstract). In Corbin, data and parity are stored in a cache maintained

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PAGE 7/9 * RCVD AT 3/29/2007 3:40:11 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/20 * DNIS:2738300 * CSID:7329357122 * DURATION (mm-ss):03-02

in the system memory of a host computer. Afterwards, the data is written to a final location on a disk, and the parity is written to another location in the cache. (Corbin, col. 2, lines 1-15; col. 5, lines 43-59; FIG. 4). Corbin further discloses a "checkpoint module" that monitors system conditions of the computing system and disables the cache if a fault is detected. (Corbin, col. 2, lines 17-22; col. 6, lines 30-36; FIG. 6A).

Corbin, however, does not teach each and every element of Applicants' invention recited in claim 1. Namely, Corbin does not teach or suggest distributing checkpoint data within a production server among a plurality of backup servers. Storing data and parity across an array of disks, i.e., RAID-5, does not teach or suggest distributing checkpoint data across a plurality of backup servers. The term "backup servers" in Applicants' claim 1 read in light of the specification by one skilled in the art is not equivalent to "disk drives." For example, a backup server can resume execution of an application if the production server fails. (See, e.g., Applicants' specification, paragraph 0007). A disk drive cannot perform such a function and thus one skilled in the art would not consider the disk drives of Corbin to be backup servers, as recited in Applicants' claims.

"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim." Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 221 USPQ 481, 485 (Fed. Cir. 1984) (emphasis added). Since Corbin does not teach distributing checkpoint data within a production server among a plurality of backup servers, Corbin does not teach each and every element of Applicants' claim 1. Thus, Corbin does not anticipate Applicants' invention recited in claim 1.

Independent claims 9, 14, and 17 recite features similar to those of claim 1 emphasized above. Notably, claim 9 recites a plurality of backup servers for storing distributed checkpoint data. As described above, Corbin does not teach or suggest backup servers. Claim 14 recites a server that accesses and segments checkpoint data and supplies the segments to a plurality of second servers. The term "servers" in Applicants' claim 14 read in light of the specification by one skilled in the art is not equivalent to "disk drives." For example, a server can execute a software application. (See, e.g., Applicants' specification, paragraph 0007). A disk drive cannot perform such

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a function and thus one skilled in the art would not consider the disk drives of Corbin to be servers, as recited in Applicants' claims. Claim 17 recites the step of supplying checkpoint data segments to a plurality of second servers. Again, Corbin does not teach or suggest the second servers.

Claims 2-8, 10, 12-16 and 18-19 depend from claims 1, 9, 14, and 17 and recite additional features thereof. Since Corbin does not anticipate Applicants' invention recited in claims 1, 9, 14 and 17, Corbin also fails to anticipate dependent claims 2-8, 10, 12-16 and 18-19. Accordingly, the Applicants contend that claims 1-10 and 12-19 fully satisfy the requirements of 35 U.S.C. §102.

CONCLUSION

In view of the foregoing, the Applicants submit that none of the claims presently in the application are anticipated under the provisions of 35 U.S.C. § 102. Consequently, the Applicants believe that all these claims are presently in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Office believes that any unresolved issues still exist or if, in the opinion of the Office, a telephone conference would expedite passing the present application to issue, the Office is invited to call the undersigned attorney directly at 732-917-6320 or the office of the undersigned attorney at 732-978-7100 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

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Date: March 29, 2007

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